

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Uwe Klaus et al.
Serial No: 10/526,439
Filed: 3/3/2005
Title: Fiber Cassette and Modularly Designed Cassette System
Examiner: Krishnan S. Menon
Art Unit: 1723

Commissioner for Patents
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

In response to the office action dated 9/6/2007, Applicant herewith elects - **WITH TRAVERSE - group A - Figs. 1 to 2** - for further prosecution in order to comply with 37 CFR 1.143. Claims 18, 20, 23, 24, 26, 27, 28 read on this species.

Examiner states that even though the present application is a filing under 35 USC 371, the mere filing of a preliminary amendment has cancelled the status of a national stage filing and that therefore USPTO rules for the restriction requirement apply.

The undersigned respectfully disagrees. A national stage filing is to be treated as such no matter whether amendments are filed or not. See MPEP 1893.03(d) Unity of Invention, 2nd paragraph after recitation of 37 CFR 1.499 (emphasis added):

*“Examiners are reminded that unity of invention (not restriction) practice is applicable in international applications (both Chapter I and II) and **in national stage applications submitted under 35 U.S.C. 371**.”*

The undersigned is not aware of any changes in this practice and in particular not of a negation of the special status of a national stage application after filing a preliminary amendment; such preliminary amendments are standard practice in order to bring the literal translation of the international application into compliance with USPTO rules as regards formal matters (headings and claim structure).

The USPTO even suggests that changes be made to the international application

when entering the U.S. national stage rather than submitting translations of amendments made during the international stage. See, for example, **MPEP 1893.01(a)(2) Article 19 Amendment (Filed With the International Bureau) [R-3]** where it is suggested (emphasis added) that:

“Applicants entering the national stage in the U.S. are encouraged to submit an amendment in accordance with 37 CFR 1.121 rather than an English translation of an Article 19 amendment. Sometimes when an Article 19 amendment is translated into English, it cannot be entered. That is, each page of an Article 19 amendment must be entered by substituting a page of amendment for the corresponding page of claims of the international application. After translation of a page, the translated page may no longer correspond to a page of the claims of the international application such that the amendment is capable of entry by substituting the page of English translation (of the amendment) for the corresponding page of claims of the international application without leaving an inconsistency.”

It is respectfully requested that the restriction requirement be withdrawn and that the application be treated under unity of invention standards and PCT rules.

Should there have been any recent changes to the practice in regard to entry of the national stage that the undersigned is not aware of, the undersigned respectfully requests that such rule be pointed out to her.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on October 5, 2007,

/Gudrun E. Hockett/

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